



**Date of Meeting:** June 4, 2015

**TOWN OF LEESBURG  
PLANNING COMMISSION PUBLIC HEARING**

**Subject:** TLZM-2013-0001, Crescent Parke

**Staff Contact:** Michael Watkins, Senior Planner

**Applicant:** Hobie Mitchel, Lansdowne Development Group, LLC  
2553 Dulles View Drive, Suite #400, Herndon VA 20171  
(703) 995-1849; [hmitchel@lansdownedevgroup.com](mailto:hmitchel@lansdownedevgroup.com)

**Applicant's Representative:** Christine Gleckner, AICP, Walsh Colucci Lubeley & Walsh  
1 East Market Street, Suite #300, Leesburg, VA 20171  
(571) 209-5776; [cgleckner@ldn.thelandlawyers.com](mailto:cgleckner@ldn.thelandlawyers.com)

**Proposal:** **Rezoning Application:** An application to rezone approximately 29 acres from the CD-C (Crescent District-Commercial) and the CD-MUO (Crescent District-Mixed-Use Option) to the CD-RH (Crescent District-Residential High Density); and to rezone approximately two (2) acres from CD-OS (Crescent District-Open Space) to CD-RH. Within the CD-C and CD-MUO districts, the application includes up to 163,625 square feet of nonresidential uses to include: a maximum of 112,500 square feet of office uses, a maximum of 141,125 square feet of retail uses, inclusive of a hotel use subject to a future special exception application and 96 multifamily dwelling units. Within the CD-RH, the application includes 96 stacked townhouses (two-over-two) and 209 conventional townhouses. The application includes several zoning modifications which affect building architecture and site design.

There is a related Town Plan Amendment, TLTA 2015-0001, to convert 29 acres from Open Space (2 acres) and Commercial/Mixed Use (27 acres) to a Residential classification. That application is discussed in a separate staff report.

**Planning Commission Critical Action Date:** **September 12, 2015**

**Recommendation:** Staff recommends denial of the related Town Plan Amendment (TPA) because it provides inadequate justification regarding why the Town should amend the Crescent District Master Plan. Staff is unable to make a recommendation on the rezoning at this time based on the following factors:

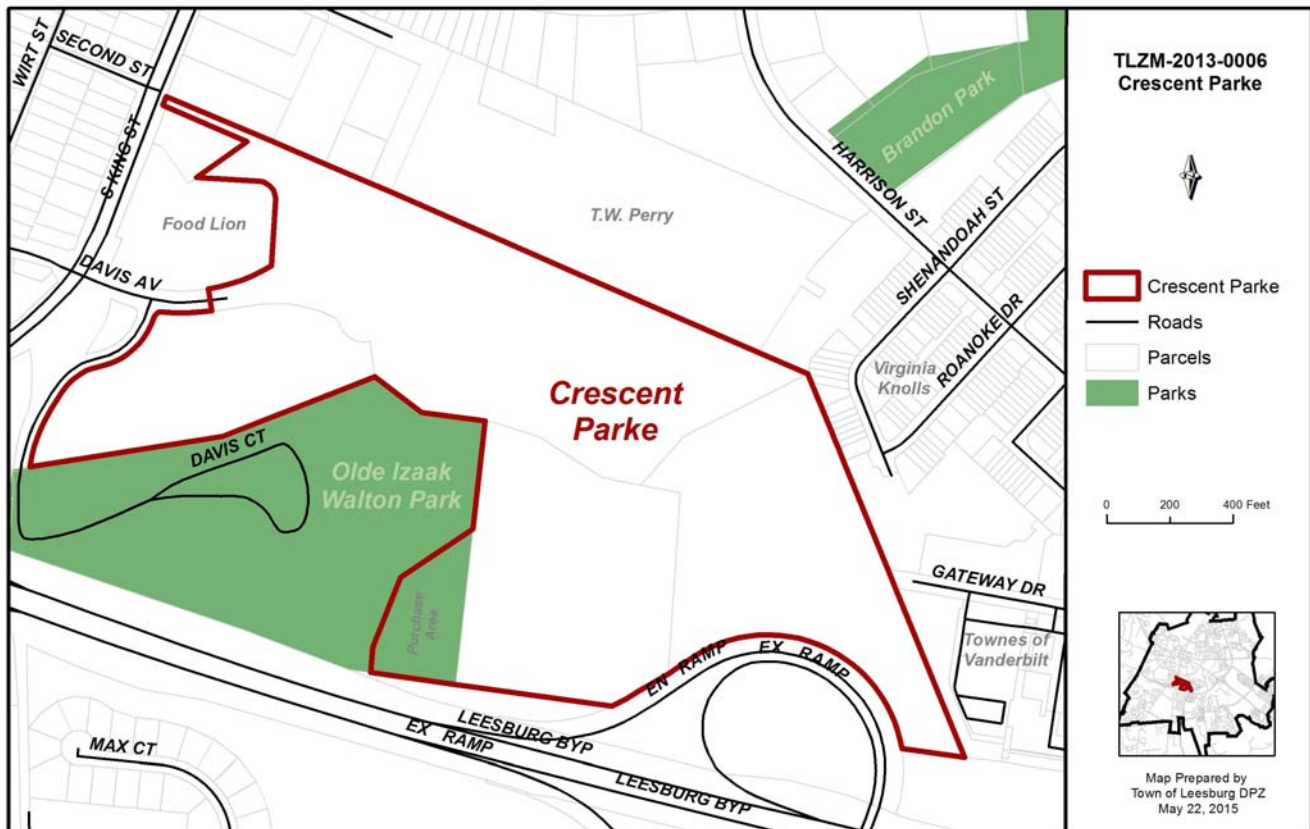
- The proposal is contrary to current Town Plan land use policies which call for mixed uses or open space on the 29 acres subject to rezoning to high density residential use.
- Compliance with Crescent District zoning standards has not been adequately addressed.
- Information regarding stormwater management impacts is not sufficient.

- Transportation issues regarding Davis Drive Extension and the Greenway Extension have not been adequately addressed.

**Application Acceptance Date:**

**April 7, 2014**

**Web Link:** A comprehensive listing of all application documents is found here:  
<http://www.leesburgva.gov/government/departments/planning-zoning/liam-interactive-applications-map>



*Figure 1, Location*

Table 1. Property Information			
<b>Address:</b>	Adjacent to Rt.15 By-Pass and east of S. King Street	<b>Zoning:</b>	CD-C, CD-MUO, CD-OS
<b>PIN #</b>	232-37-7166, 232-37-5627, 232-38-9290, 232-28-3893, 232-37-3721	<b>Planned Density:</b>	No max. FAR; Residential density set at rezoning
<b>Size:</b>	53.33 acres	<b>Planned Land Use:</b>	Mixed-Use / Commercial

**Suggested Motions:**

**Denial**

I move that Zoning Map Amendment TLZM 2013-0006, Crescent Parke, be forwarded to the Town Council with a recommendation of denial on the basis that the Approval Criteria of Zoning Ordinance Section 3.3.15 have not been satisfied due to the following reasons \_\_\_\_\_.

A recommendation of denial should include reasons as to why the application should be denied. The following reasons could justify denial of the application:

- The proposal is contrary to current Town Plan land use policies which call for mixed uses or open space on the 29 acres subject to rezoning to high density residential use. Staff does not support the related Town Plan Amendment request.
- Compliance with Crescent District zoning standards has not been adequately addressed.
- Information regarding stormwater management impacts is not sufficient.
- Transportation issues regarding Davis Drive Extension and the Greenway Extension have not been adequately addressed.

- OR -

**Approval**

I move that Zoning Map Amendment TLZM 2013-0006, Crescent Parke, be forwarded to the Town Council with a recommendation of approval for the reasons stated in this staff report, and on the basis that the Approval Criteria of Zoning Ordinance Sections 3.3.15 have been satisfied and that the proposal would serve the public necessity, convenience, general welfare and good zoning practice.

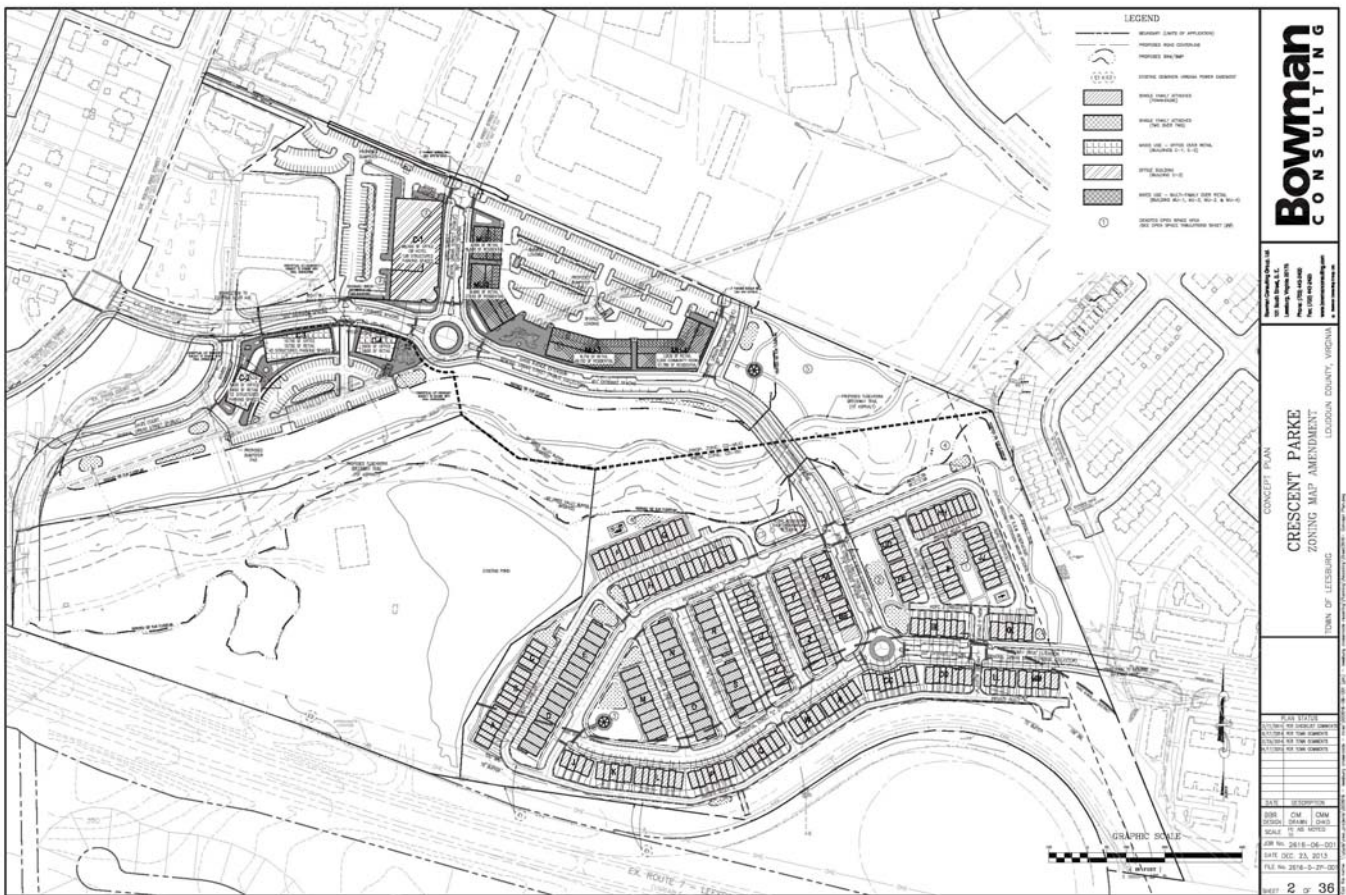
-OR -

**Work Session**

I move that Town Plan Amendment TLTA 2015-0001, Crescent District Uses (Crescent Parke) and Zoning Map Amendment TLZM 2013-0006, Crescent Parke, be discussed at a Planning Commission Work Session on \_\_\_\_\_ to consider outstanding issues contained in the staff report dated June 4, 2015.

---

- I. Application Summary:** The Applicant is requesting to rezone areas of the property currently zoned CD-C (Commercial) and CD-MUO (Mixed-Use Option) to the CD-RH (Residential High Density). Figure 3 depicts the location of the proposed districts and Table 3 lists the proposed acreage for each zoning district. The property is generally located north of the Route 7/15 By-Pass and east of South King Street, behind the Food Lion grocery store. The property is comprised of two land bays, one north and the other south of the Tuscarora Creek, as illustrated on Figure 2 below.



*Figure 2, Concept Plan*

The land bay north of the Tuscarora Creek includes the CD-C and CD-MUO districts. The CD-C portion of this land bay includes three buildings totaling 45,100 sf. of office and retail uses. The CD-MUO portion of the land bay includes a building of 88,000 sf. which can be office or hotel, and four mixed-use buildings containing 96 multi-family dwelling units and 26,625 sf. of retail.

The land bay south of the Tuscarora Creek is proposed as CD-RH. Contrary to the Crescent District Master Plan and the intent of the current zoning district this land



bay is essentially a suburban neighborhood composed of 207 townhouses and 96 stacked townhouses or 2-over-2s.

The application includes proffers which generally provide for substantial conformance with most Concept Plan sheets, phased transportation improvements, commitments to on-site recreational amenities, and cash contributions. Table 2 summarizes the proposed cash contributions.

Table 2. Summary of Proffered Cash Contributions		
Type of Contribution	Amount	Total
School Capital Facilities (Proffer 8)*	\$15,619 / 303 (TH & 2/2)	\$4,732,557
	\$7,809 / 96 MF	\$749,664
Recreation Contribution (Proffer 3.2)	\$1,000 / 399 du	\$399,000
Off-Site Transportation Fund (Proffer 2.2.7)		\$800,050
Fire & Rescue (Proffer 5.1)	\$100 / 399 du	\$39,900
	\$0.10/s.f. x 159,725	\$15,973
<b>Total Proffered Contributions</b>		<b>\$6,377,144</b>
<b>Total for use by the Town of Leesburg</b>		<b>\$1,119,050</b>

\*Proffer specifies contribution “may be used for schools or capital projects in the Town of Leesburg.”

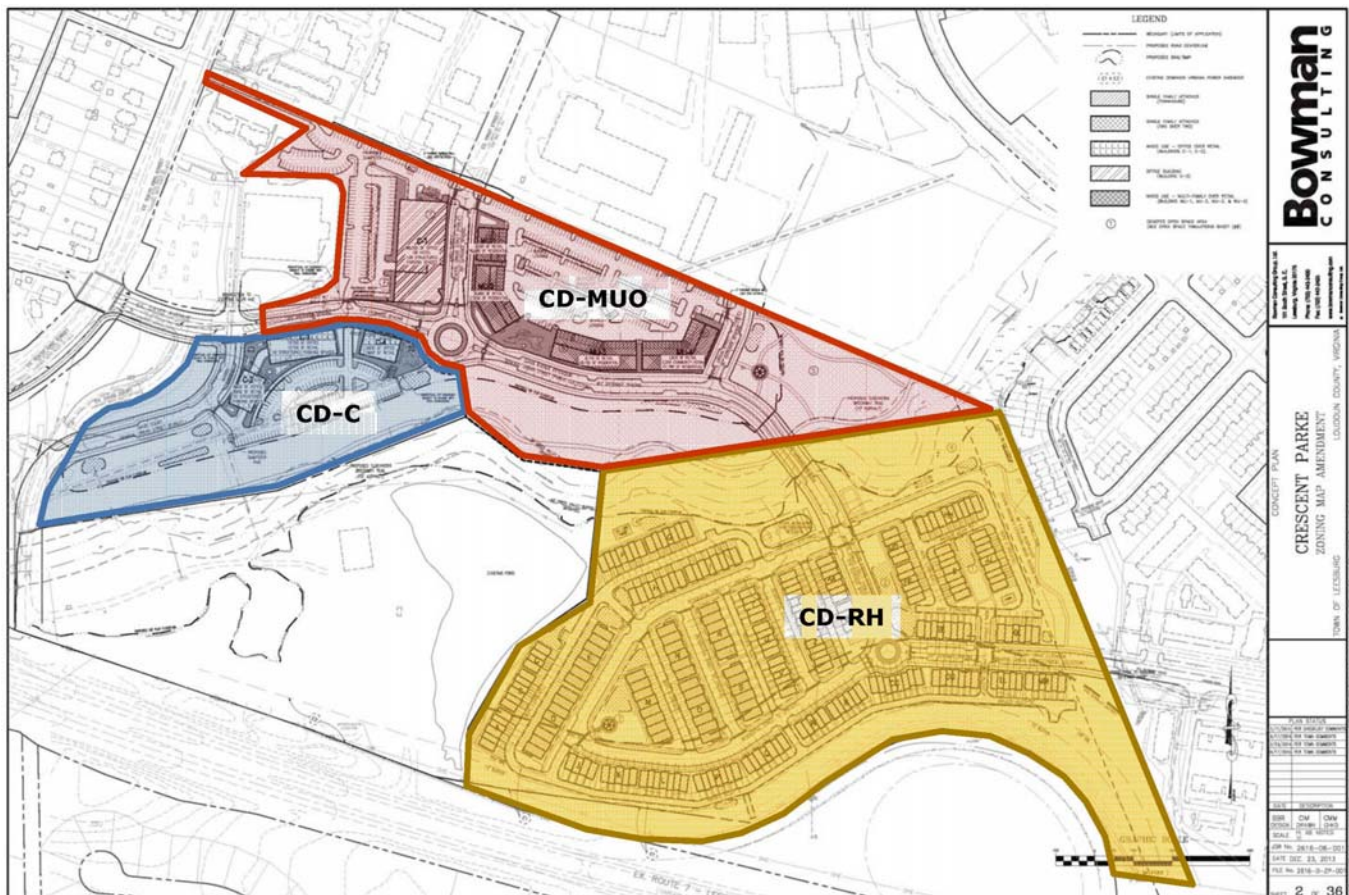
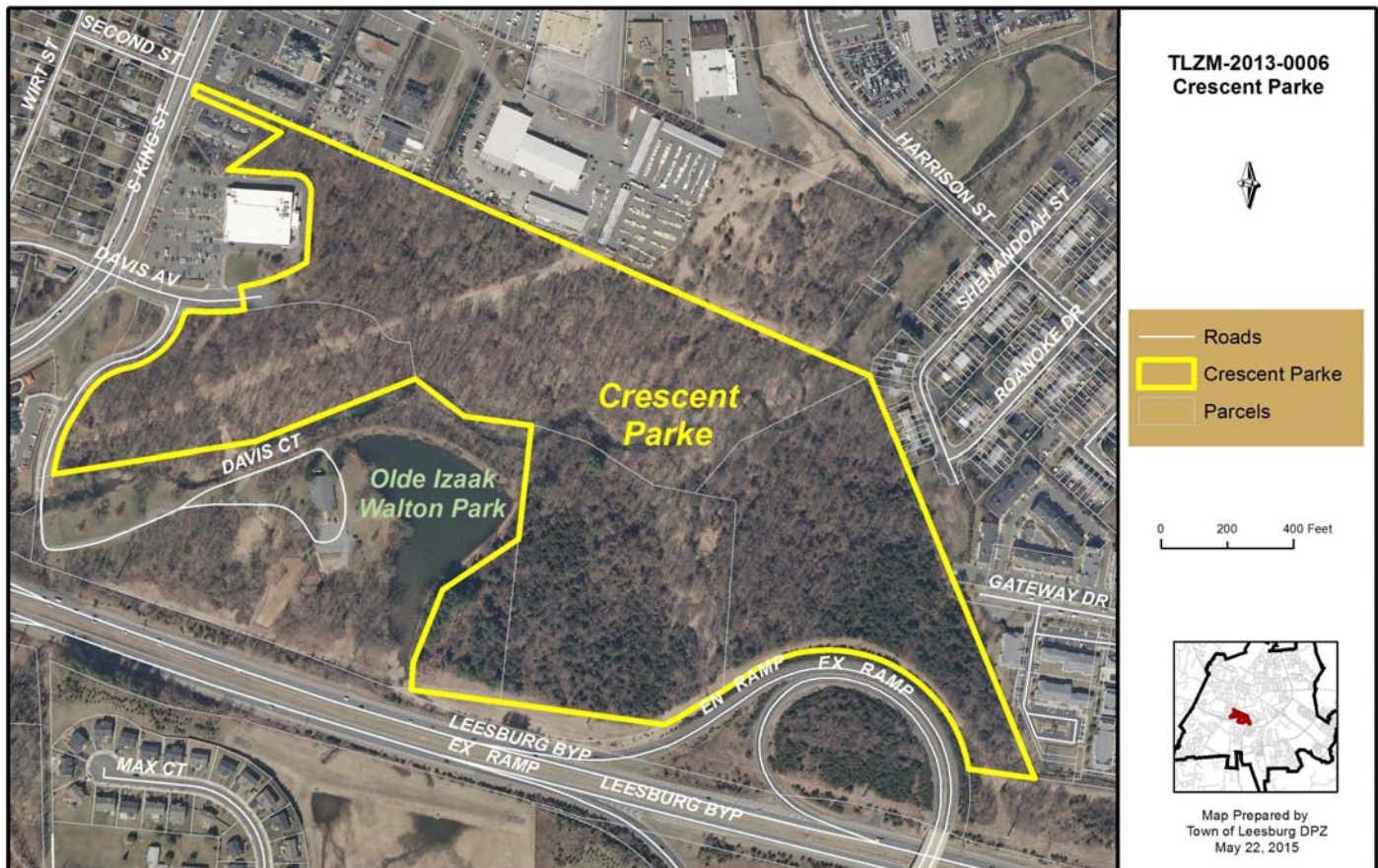


Figure 3, Proposed Zoning Districts

Table 3. Zoning Area			
District	Area in Acres	Area in Square feet	Color Code
CD-C	7.53	328,185	Blue
CD-MUO	16.82	732,655	Red
CD-RH	28.98	1,262,488	Orange

- II. Current Site Conditions:** The property is currently vacant. Access to the property is provided via a temporary turnaround at the existing terminus of Davis Avenue, to the west; and, to the east, Gateway Drive terminates at the property boundary. The property is mainly forested, with the Tuscarora Creek bisecting the property. Figure 4 illustrates the existing conditions.



*Figure 4, Existing Conditions*



**III. Uses on Adjacent Properties nearest the Amended Areas:**

<b>Table 4. Adjacent Uses</b>			
<b>Direction</b>	<b>Existing Zoning</b>	<b>Current Use</b>	<b><i>Town Plan</i> Land Use Designation</b>
North	CD-C, CD-MUO	Lumber and Building Material Sales, Office, car wash, auto sales	Crescent Design District Commercial/Mixed-Use
South	PRC	Park/Residential Neighborhood	Low Density Residential
East	R-8, R-22, B-2	Multifamily Dwellings & Townhouses	Downtown
West	B-2, R-6	Office, Retail, Single Family Detached	Downtown

- IV. Zoning History:** The Crescent Design District zoning was established in 2013. To implement the amended Crescent Design District, the subject property was comprehensively rezoned and portions of the property were included in the commercial, mixed-use option and open space sub-districts.

Development plans were previously submitted and reviewed for development on portions of property prior to the comprehensive rezoning to the Crescent District. TLPF-2010-0004 is a site plan that proposes a 60,900 square foot building located behind the existing Food Lion grocery store. TLPS-2008-0004 is a preliminary subdivision plan that proposes 35 residential duplexes located along the Route 15 By-Pass and Gateway Drive. If the Town Plan Amendment and Rezoning are not approved, the Applicant could address minor Staff comments and provide the required bonding and securities. This would permit construction of the office building and residential duplexes. Illustrations of the pending application are included as an attachment.

**V. Staff Analysis**

- 1. Review Summary:** Three submissions of the rezoning application were reviewed by Staff. Multiple meetings were held to discuss the Town Plan Amendment and rezoning applications. Although there are many unresolved zoning comments (see below), the Applicant has elected to initiate formal discussion of the application with the Planning Commission.
- 2. Town Plan Compliance:** TLZO Section 3.3.8 requires an assessment of whether or not the proposed rezoning is consistent with the applicable provisions of the *Town Plan* and states that “*inconsistency with the Town Plan may be one reason for denial of an application.*” Further, TLZO Section 3.3.15 includes five approval criteria, the first of which states that a rezoning

application must be consistent with the *Town Plan*. See TLTA 2015-0001 for analysis of the proposed amendment. Until such time as the Town Council renders a decision on whether the proposed amendment is acceptable, staff cannot make a recommendation on the rezoning regarding whether it is consistent with the Town Plan.

3. **Proposed Uses, Office:** Building C-1 is proposed as a 88,000 square foot office building. Alternatively, Building C-1 could be a hotel. This single building represents 56% of the total commercial area proposed in the entire 53-acre site (88,000 of 159,725sf.). In order to support the proposed office density the Applicant must integrate structured parking in addition to a surface parking facility. The Applicant has stated that their design intent concentrates nonresidential uses north of the Tuscarora Creek. Staff notes that a “concentration” of uses was not intended in the CDD. Staff is concerned that this development concept is unlikely to come to fruition any time in the future based on the following reasons:

- **Office Market:** as testified to by numerous applicants on recent legislative applications, the Leesburg office market is extremely weak, particularly for this amount and style of office. In another zoning amendment case an applicant is looking to eliminate something very similar - a 110,000 sf. stand-alone office building with a proposed 3-story parking garage because of inability to attract a user.
- **Location:** The office building will be located off of South King Street and behind a grocery store. Although Davis Avenue is classified as a through-collector, and will function as a key component of the town’s roadway network, it is Staff’s opinion the site will not have the necessary visibility to market a stand-alone office building of this size, particularly given the lack of other similar uses around it.
- **Timing:** The claim is made that additional rooftops are necessary to spur this type of commercial development, but staff notes that property is predominately surrounded by residential uses and that the additional density does not appear to provide the critical mass necessary to support the proposed commercial density.
- **Cost:** Without a specific tenant, the integrated parking structure necessary to support the proposed density of office uses will likely be a burden preventing construction of the structure. The Applicant should consider other design alternatives with a lesser density and a greater mix of uses which minimize the need for structured parking.

4. **Impacts to the Olde Izaak Walton Park:** This application proposes to rezone two acres of land zoned CD-OS (Crescent District-Open Space) and designated as open space in the Crescent District Master Plan. The two acres is part of the Olde Izaak Walton Park, which is property owned by Failmezgar Investments, LLC, and leased by the Town of Leesburg. Rezoning the property to CD-RH will permit single-family attached townhouses. Staff notes the following potential issues:



- **Conflicts Planned Land Use:** The rezoning is inconsistent with the planned land use by converting open space to residential.
- **Park Setting:** Staff is concerned with the location of residential dwellings in close proximity to the existing pond and the disturbance to existing vegetation which negatively affects the existing park-like setting.

**5. Site Design:** This section highlights key issues which impact the layout of the Property and compliance with Town ordinances and regulations.

- A. Building Placement:** TLZO Section 7.10.4 requires a certain percentage of the street frontage to be occupied by buildings. Sheet 2B depicts the calculation of building frontage and Staff notes that a modification is necessary. TLZO Section 7.10.4.E permits the frontage requirement to be reduced up to 50% if certain criteria are met. It appears that amenity features are proposed as compensating features to permit the reduced building frontage. Staff does not generally object; however, Staff recommends that each building's frontage calculation and compensating amenity feature be reviewed for compliance with the intent of the ordinance requirement by the Planning Commission.
- B. Dulles Greenway Extension:** The extension of the Dulles Greenway was endorsed by the Town Council via Resolution 89-257 on December 12, 1989. The conceptual alignment depicts an extension of the Dulles Greenway ramps to connect with Harrison Street. The extension was discussed during the Town Plan amendment for the Crescent District Master Plan. The TIA accompanying the Town Amendment was reviewed by VDOT and was retained in the Town Plan. The extension is still planned as long-range capital improvement, and has not been identified on any Capital Improvement Project priority list for funding.

The Concept Plan depicts a 90-foot wide reservation area and the proffers provide for the recordation of a 21-year reservation easement. Staff notes the following concerns:

- i. Buffering:** Buffering of single-family attached townhouses from a minor arterial road was not contemplated at the time the district requirements were approved because townhouses are not permitted under the current CD-C District zoning. As proposed, there are areas barely 10 feet wide to support adequate buffering and screening of the future Greenway extension from the adjacent townhouses.
- ii. Proximity of Dwelling Units:** As proposed, single-family attached townhouse units are less than 50 feet to the reservation area. The impact of the road on the quality of life of residents could be substantial.

**iii. Grading:** Due to the proximity of the dwelling units to the reservation area, Staff has requested that a preliminary grading analysis be provided to justify the proposed residential design. Staff notes that the approved Preliminary Plat TLPS-2008-0001-Crossroads at Leesburg (under then R-6 zoning) was designed such that Bon Air Drive would serve as a half section of the ultimate roadway with an at-grade intersection with a Future Greenway extension connection. Retaining walls or an elevated roadway will have an adverse impact on the adjacent dwelling units. If the impact of the potential Greenway extension designs is not coordinated with the rezoning, which controls the layout of the property, there is the potential for significant engineering constraints and unknown impacts upon the residential units.

**C. Davis Avenue/Gateway Drive:** The Applicant has designed the connection/extension of Davis Avenue and Gateway drive as a two-lane General Street in a 70-foot right-of-way. A planned roadway connection is depicted on the Crescent District Future Streets Policy Map. TLZO Section 7.10.11 specifically designates these roads as an “Urban Boulevard” which is a four-lane road in a 96-foot right-of-way. Staff notes that a zoning text amendment is necessary to approve a reclassification of these roads. Staff does not support a reclassification of Davis Avenue and Gateway Drive for the following reasons:

- The proposed traffic counts of approximately 4,000 VPD is double the threshold for a Through Collector as defined in DCSM 7-220.1.C.
- Section 7-220 Street Classification: The Traffic Impact Analysis (TIA) fails to provide the Vehicles Per Day (VPD) to determine the roadway classification as defined in the DCSM.
- Section 7-300.1.D(7) Street Design Requirements: This section references TLZO Sec. 7.10 regarding typical street sections and states that *“in no instance shall a reduction in right-of-way width be granted for properties located in the Crescent Design District”*.
- DCSM Section 7-300.2 states that *‘Each street should have a continuity of design throughout. Therefore, multiple or “step down” typical designs will not be acceptable where major traffic generator such as an intersection with a collector street would delineate a clear line of demarcation.’*

Staff continues its recommendation that the current Concept Plan layout be revised to accommodate the required street section as an Urban Boulevard.

**D. Tuscarora Bridge Design:** The Zoning Ordinance and Design and Construction Standards Manual do not include specific architectural requirements for the Tuscarora Creek Bridge. Staff notes that conceptual

architectural elements for the Rivercreek/Crosstrail Bridge over Route 7 were included in the Village at Leesburg rezoning application. Staff recommends that the same approach be taken with this application.

- E. Intersection Spacing Criteria:** The Applicant has designed Davis Avenue/Gateway Drive as a General Street. As noted, this roadway is designed as an Urban Boulevard and has a minor arterial functional classification. Due to this issue, the intersection separation requirements are not met. The Applicant has previously responded to Staff comments by stating that the spacing criteria has been provided for a major collector roadway classification. However, this is not consistent with the classification of this minor arterial (Urban boulevard) per applicable regulations, policies and design criteria. The road layout depicted on the Concept Plan must be revised to satisfy applicable separation requirements for a minor arterial road as defined by the DCSM.
- F. SWM/BMP Impacts:** Preliminary analysis of SWM/BMP is required at the rezoning level to determine that the layout depicted on the Concept Plan can be constructed as proposed without significant alteration. Staff notes a number of technical deficiencies in the proposed strategies for SWM and BMP and are included as an attachment to this report. Staff expects to address these issues during a future work session.
- G. Four-Way Stops:** The Concept Plan was revised to add two four-way stops on Davis Avenue/Gateway Drive. These proposed four-way stop conditions were not part of the traffic impact analysis (TIA). Staff notes that studies have determined that all-way stop signs can actually exacerbate problems after extended use. A revised TIA must be provided to support the use of four-way intersection for the minor arterial road.
- H. Transmission Lines:** This project is proposing townhouse units as close as 84 feet from the overhead transmission lines running along the bypass. Recently, as part of the PMW Farms rezoning, a minimum 120' yard setback from the easement and a minimum separation of 160' between the overhead lines and the nearest residential unit was provided. Townhouse units A, J, K, L,P and half of D are proposed within 120 feet of the transmission lines. If the recommended setback is not considered, a tall berm should be provided from the base of the transmission line poles to the edge of the rear alley that fronts the bypass. The berm should include trees and shrubs within the transmission line easement as was approved along the Route 7 transmission line easement for the Village at Leesburg development. The latest Applicant response indicates that they are investigating opportunities to address the comment.
- I. First Street Connection:** Based on the Concept Plan layout and rough grading plan, the Applicant is not facilitating a through connection from the property north onto existing First Street. A major principle of the Crescent District is the concept of replicating the Downtown through the

establishment of a grid of streets. If the Applicant is unable to provide the through connection, the Concept Plan must be revised to provide a temporary cul-de-sac per DCSM regulations. Staff recommends that the Applicant provide suitable off-site improvements to facilitate a through connection on First Street.

**J. Off-Site Street Connections:** Staff is concerned that the proposed connection with the adjacent TW Perry property has not been fully vetted. The proposed connection does not provide an optimal geometric roadway configuration through the TW Perry property to Catoctin Circle and creates a very small development envelope east of the future connection and west of the flood plain. Staff's recommendation is to move the connection 200 feet to the west in order to facilitate a more practical street pattern.

**K. Amenity Areas in the CD-RH:** TLZO Sec. 7.10.5.G qualifies the features of amenity areas like greens, plazas, pocket parks so that amenity areas and open spaces are integrated into the design and not just a spattering of small left-over open spaces. These spaces are intended to give character to the community and be a unifying element. The CDD does permit the developer to justify other similar features not included in the ordinance. The required open space minimum of 10% of the site is technically satisfied with the on-site flood plain, which is permitted by ordinance. However, the CD-RH was CD-RH was meant to be a very urban high-density sub-zoning district limited to a "residential core" located in close proximity to the Downtown. Large suburban styled neighborhoods were not envisioned for the CDD. The volume of needed recreation area based on the unit type and density cannot be satisfied with the limited amenity features prescribed in TLZO Sec. 7.10.5.G and chosen by the Applicant. Again, suburban neighborhoods were not planned for the CDD or for this property. Staff believes the proposed amenity areas are significantly inadequate in that they do not achieve the intended design for the CDD and do not provide sufficient active recreation for the proposed unit type and density.

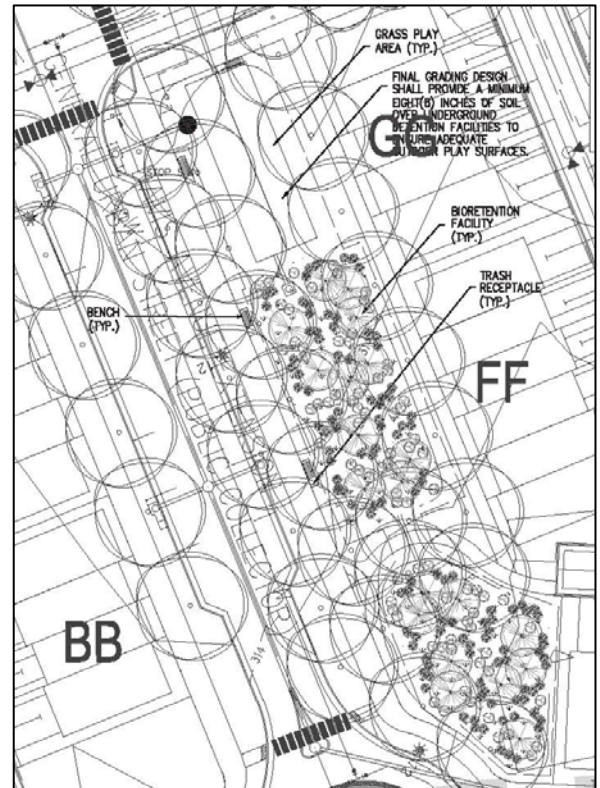
Staff notes the changes made with this revised submission continue to erode active recreation areas. To cite an example, the mews or pocket parks located in close proximity to residential units have been diminished with the expansion of biorentention facilities. See figures 5 and 6.

**L. Noise Analysis:** Although Staff disagrees with the manner in which the analysis was prepared, the noise study submitted on January 12, 2015, indicates exterior noise levels above the maximum permitted exterior noise level of 70 dBA in the rear yard areas of townhouse units adjacent to the Route 7/15 By-Pass. Noise mitigation measures such as earth mounds or sound walls must be provided to decrease the exterior noise levels to 70 dBA or less.





*Figure 5, Third Submission*



*Figure 6, Fourth Submission*

**M. Tuscarora Greenway Trail:** The application was modified to propose the trail on the north side of the Tuscarora Creek to avoid the need to cross the emergency spillway of the existing pond. The revised alignment crosses the alternate channel in an area that will be frequently inundated from backwater of Tuscarora Creek, traverses 3:1 slopes and crosses the reduced 50' Creek Valley buffer. The proposed alignment presents many more challenges and issues than the alignment to the south of the creek. The alignment should be revised such that the proposed trail does not need to traverse 3:1 slopes, traverse the alternate channel nor is located within the Creek Valley Buffer.

**N. Parking Tabulations, Outdoor Seating:** The proposed mixed-use design includes outdoor patio areas which could be used as outdoor seating. Staff recommends that the parking tabulations include outdoor seating to proactively address a potential future zoning issue regarding parking.

**O. Visitor Parking:** Some dwelling units are served by visitor parking spaces that are over 300 feet away, which exceeds the standard set in TLZO Sec. 11.4.1.A.2. In other cases, blocks of units are served by few close visitor parking spaces (such as Buildings A, B and C on the Concept Plan. The visitor parking should be reconsidered to better distribute the provided spaces.

**P. Development Phasing, Generally:** Staff notes that the application does not include a phasing program based on commercial or residential thresholds; rather, phasing is based on transportation improvements. Development of commercial uses north of Tuscarora Creek is contingent upon intersection improvements to South King Street and Davis Avenue, and frontage improvements for Davis Avenue as development occurs. Development of the residential dwellings south of Tuscarora Creek is contingent upon an approved site plan for the construction of the Tuscarora Creek bridge crossing. The phasing does not adequately address the timing of the relocation of Davis Court (see proffer comments below). Other than these issues, Staff does not object to the proposed phasing of this development..

**VI. Proffers:** The Applicant has submitted draft proffers revised through April 17, 2015. Staff provides a brief summary of each proffer with Staff's comments below.

- 1.1      Substantial Conformance: This proffer establishes that only certain sheets of the Concept Plan are proffered.

*Staff notes that previously approved rezoning applications with concept plan and proffers have included proffers that require substantial conformance to all concept plan sheets*

- 1.2      Development Program: This proffer establishes limitations of commercial and residential density. The CD-C sub-district is limited to 45,100 sf. of retail; the CD-MUO sub-district is limited to 96 multi-family residential dwellings and 26,625 sf. of retail and 88,000 sf. of office or hotel; and the CD-RH is limited to 96 multi-family residential dwellings and 207 single-family attached townhouses.

*Staff has no comment*

- 1.3      Development Phasing: This proffer establishes the timing of development and associated triggers for required improvements as describe below:

*Staff notes that this rezoning establishes a limitation on non-residential square footage, whereas a by-right application could yield density above the Applicant's limitation of 159,725. The Crescent District purposely excluded FAR limitations to permit a mix of uses in an urban setting. This rezoning proposes a FAR of 0.07 throughout the site. Transportation infrastructure must be in place to support commercial and residential development; however, no commercial square footage is required to be in place before all the townhouses and 2-over-2's are constructed. The reasons for this*

*concern are dealt with in discussions regarding the land use. Aside from that, Staff has no additional comment on this proffer.*

- 1.3.1 Transportation: The initial phase of construction requires the construction of Davis Avenue and Gateway Drive, the relocation of Davis Court and improvements to the intersection of South King Street and Davis Avenue.

*Staff has no comment*

(Proffer numbers 1.3.2 and 1.3.3 were skipped by Applicant)

- 1.3.4 Land Disturbance: This proffer permits the Applicant to begin development on the entire property.

*Staff has no comments.*

- 1.3.4 Triggers: (number was repeated) The triggers described below must be satisfied to advance through the proffered phasing.

- 1.3.4.1 Occupancy Permits: This proffer limits issuance of occupancy permits until such time as the South King Street intersection improvements are completed and frontage improvements are made to Davis Avenue

*Staff notes that occupancy permits would apply to both residential and commercial buildings. Staff also notes the following issues*

- *Davis Avenue Frontage Improvements: There is not enough detail in the language to define what portions of Davis Avenue would need to be completed; and*
- *Traffic Analysis: The TIA did not include a scenario where only portions of Davis Avenue/Gateway Drive were partially constructed.*
- *Davis Court: The proffer, as written, would permit issuance of occupancy permits for the commercial buildings south of Davis Avenue so long as access was provided from Davis Avenue, without the benefit of Davis Court being relocated.*
- *First Street: The proffer, as written, would permit issuance of occupancy permits for the buildings north of Davis Avenue; however, access would have to be provided from First Street or General Street A.*

*Staff recommends that the proffer be revised to address the necessary detail regarding Davis Avenue and Davis Court improvements. The proffer should include language that requires the following:*

- *construction of Davis Avenue to the proposed roundabout, and*
- *construction of First Street to the proposed roundabout, and*
- *relocation of Davis Court*

*All improvements should be made prior to the issuance of any occupancy permit. The recommended proffer changes ensure that necessary improvements are made to provide adequate ingress/egress to all of the developable areas north of the Tuscarora Creek bridge.*

- 1.3.4.2 Residential Zoning Permits: This proffer requires that a site plan be approved which permits construction of the Tuscarora Creek bridge crossing prior to the issuance of any residential zoning permits south of Tuscarora Creek.

*Staff has no comments.*

- 1.3.4.3 Residential Occupancy Permits: This proffer requires the construction of the Tuscarora Bridge crossing prior to the issuance of any occupancy permits for the residential units south of the Tuscarora Creek.

*Staff has no comments.*

- 1.4 Parking: This proffer requires that parking be provided in accordance with the tabulations depicted on Sheet 2 of the Concept Plan which incorporates a requested zoning modification.

*Staff has no comments.*

- 2.1 Sidewalks: This proffer states that sidewalks will be provided in accordance with the locations depicted on Sheets 2 and 4 of the Concept Plan. The proffer includes a requirement for enhanced planting media for street trees and maintenance by a property owners association (POA).

*Staff has recommended the use of Silva Cells in the area north of Tuscarora Creek based on its urban nature; extensive impervious surfaces and potential pedestrian impediments adjacent to on street parking spaces.*

- 2.2.1 Davis Avenue and Gateway Drive: This proffer requires a 70-foot wide right-of-way, necessary turn lanes, and roundabout as depicted on Sheets 2 and 4 of the Concept Plan.

*Staff notes that a zoning text amendment is necessary to construct these streets as proposed. As of the time this report was written, a zoning text amendment has not been initiated by Town Council. As*



*proposed, the proposed street design, number of lanes, does not meet the required street sections in TLZO Section 7.10.11.*

- 2.2.2 General Urban Streets: This proffer requires a 70-foot wide right-of-way and that the streets will be constructed as depicted on Sheets 2 and 4 of the Concept Plan.

*Staff has no comments.*

- 2.2.2.1 Davis Court Relocated: This proffer requires that Davis Court be dedicated and bonded for construction.

*In addition to the comments regarding timing of construction noted above, Staff notes that the proffer does not specify the right-of-way width or substantial conformance with the design depicted on Sheets 2 and 4 of the Concept Plan. Staff recommends that the proffer be revised to specify the required right-of-way width and substantial compliance with Sheets 2 and 4 of the Concept Plan.*

- 2.2.2.2 First Street: This proffer requires that First Street be dedicated and bonded for construction prior to the first zoning permit for Buildings C-1 or MU-1 through M-4. The proffer also restricts occupancy permits for Buildings C-1 and MU-1 through MU-4 until First Street is constructed.

*For consistency purposes, Staff recommends that this proffer be combined with Proffer 1.3.4 Triggers. In addition, Staff recommends that Proffer 2.2.2.2 be revised to specify the required right-of-way width for First Street and substantial compliance with Sheets 2 and 4 of the Concept Plan.*

- 2.2.2.3 General Street A: This proffer requires that General Street A be dedicated and bonded for construction prior to the first zoning permit for Building M-4. The proffer also restricts occupancy permits for Building MU-4 until General Street A is constructed.

*For consistency purposes, Staff recommends that this proffer be combined with Proffer 1.3.4 Triggers. In addition, Staff recommends that Proffer 2.2.2.3 be revised to specify the required right-of-way width for General Street A and substantial compliance with Sheets 2 and 4 of the Concept Plan.*

- 2.2.3 Davis Avenue Bridge: This proffer requires that Davis Avenue Bridge be dedicated and bonded for construction as shown on Sheet 4 of the Concept Plan prior to the issuance of the first occupancy permit for the property.

*Staff notes that the road section for the Davis Avenue Bridge is not consistent with the requirements of TLZO Section 7.10.11. A zoning text amendment is necessary to construct the bridge as*

*proposed. Staff notes that a zoning text amendment has not been initiated by Town Council. For consistency purposes, Staff recommends that this proffer be combined with Proffer 1.3.4 Triggers and that Proffer 2.2.3 be revised to include the required right-of-way width in addition to the substantial compliance requirement with Sheets 2 and 4 of the Concept Plan.*

- 2.2.4 Dulles Greenway Extension: This proffer requires a 90-foot wide reservation of land along the eastern property boundary, as shown on Sheet 2 of the Concept Plan, for the future extension of the Dulles Greenway, and signs that advertise the potential future connection, and use of the reservation are for recreational purposes.

*For consistency purposes, Staff recommends that the trigger portion of this proffer be combined with Proffer 1.3.4 Triggers. Staff recommends that the triggers be revised to*

- specify the beginning date of the reservation and its duration, and*
- require that the reservation be included with the first record plat for any portion of the property south of Tuscarora Creek.*

*Staff objects to the “interim” use provision of the proffer. All too often recreational amenities included with a residential development are expected through the life of the community. In anticipation of complaints from future residents regarding the removal of recreational amenities after the development is substantially completed, Staff advises against the provision to utilize the reservation area on an interim basis.*

*Staff recommends that Proffer 2.2.4 be revised to describe the location and width of the reservation area.*

- 2.2.2.4 Dulles Greenway Dedication: This proffer requires the Applicant to dedicate the 90-foot wide right-of-way for the Dulles Greenway Dedication if requested 21 years from the date of the approval of the rezoning application.

*Staff has no comments.*

- 2.2.5.1 South King Street Turn Lanes: This proffer requires the Applicant to construct one northbound right turn-lane at the intersection of South King Street and Davis Avenue.

*Staff has no comments.*

- 2.2.5.2 South King Street Turn Lanes: This proffer requires the Applicant to construct one westbound left turn-lane at the intersection of South King Street and Davis Avenue creating dual left-turn lanes. The proffer also includes restriping to create through-right turn-lane.

*Staff has no comments.*

- 2.2.5.3 South King Street Intersection Traffic Signal: This proffer requires the Applicant to make *any* alterations to the traffic signal if requested by VDOT or the Town of Leesburg. In addition, the Applicant is required to install pedestrian count-down signals and pavement crosswalk striping.

*Staff notes that the proffers do not specify when the pedestrian signals and crosswalk striping must be completed. Staff recommends that Proffer 1.3.4 Triggers be revised to specify that required improvements stated on Proffer 2.2.5.3 be completed concurrently with the South King Street Intersection improvements.*

- 2.2.5.4 Traffic Signal and Pedestrian Improvements: This proffer requires equivalent cash contributions in the event the traffic signal and pedestrian improvement are completed by others.

*Staff recommends that Proffers 2.2.5.3 and Proffer 2.2.5.4 be combined.*

- 2.2.6 South King Street/By-Pass Traffic Signal: This proffer requires the preparation of a warrant analysis for the intersection of South King Street and the eastbound Route 15 By-Pass access ramp. The proffer requires the signal warrant analysis and a \$200,000 contribution towards the traffic signal installation prior to the 100<sup>th</sup> residential zoning permit in the CD-RH sub-district, or prior to the issuance of zoning permits for up to 22,000 sf. of retail, or a zoning permit for Building C-1.

*For consistency purposes, Staff recommends that the trigger portion of this proffer be combined with Proffer 1.3.4 Triggers. Staff notes that as written, the proffer permits up to 196 dwellings (50% of the total residential) and zoning permits for up to 22,000 sf. of retail (roughly 50% of the commercial in the CD-C subdistrict) or a zoning permit for Building C-1, which is 88,000 sf.*

- 2.2.7 Off-Site Transportation Contribution: This proffer requires a cash contribution to be paid at occupancy permit approval for each residential unit to total \$800,050.

*Based on the Appendix B of the Town Plan, (with an inflation factor of 35%) and consistent with the application of established proffer*

*guidelines, Staff calculates an Off-Site Transportation contribution of \$807,903.*

Table 5. Appendix B Off-Site Transportation Contribution Calculation				
Land Use	Total Area (sf)	Development Unit	Cost per Unit*	Cost
General Office	110,550	1,000	\$4,281	By-right use in CD
Retail	49,175	1,000	\$24,550	By-right use in CD
Hotel		room	\$3,144	By-right use in CD
Townhouse		207 units	\$2,097	\$434,079
2/2		96 units	\$2,097	\$201,312
Multi-family		96 units	\$1,797	\$172,512
			Total	\$807,903
*the amounts represent a 35% inflation factor applied to the 2005 Appendix B amount				

- 3.1.1 Open Space/Amenity Areas: This proffer requires construction of open space and amenity areas in conformance with Sheets 24 through 29 of the Concept Plan and associated triggers contained within the proffer.

*Staff notes its objection to recreational amenities within the Dulles Greenway Extension. Staff recommends that the Proffers be revised to permit inclusion of recreation amenities after the expiration of the 21-year right-of-way reservation. The Applicant can place in escrow an amount equal to the construction of a pedestrian trail within the expired reservation area. Other comments regarding timing and amenity area details will be discussed at a future work session.*

- 3.1.2 Pocket Parks: This proffer requires that the construction of pocket parks will in substantial conformance with locations and details depicted on Sheets 24 and 25 of the Concept Plan.

*Staff comments regarding pocket park details will be discussed at a future work session.*

- 3.1.3 Bicycle Facilities: This proffer requires installation of bicycle racks as identified on the Concept Plan.

*Staff has no comments.*

- 3.1.4 Community Room: This proffer establishes a 2,000 sf. meeting room located in Building MU-4.

*Staff notes that the proffer limits the use of the room as a meeting room only.*



- 3.2 Park Contribution: This proffer provides a contribution of \$1,000 for each residential dwelling unit to be used for capital improvements to Department of Parks and Recreation facilities.

*Staff has no comments.*

- 4.2 Energy Savings Design: This proffer provides an ENERGY STAR or Home Energy Rating System Rating (HERS) for each dwelling unit.

*Staff has no comments.*

- 4.3 Dumpster Pads: This proffer describes elements for dumpster locations for the MU buildings.

*Staff has does not object to the proffer, but notes sufficient detail is already provided in the typical detail on Sheet 4 of the Concept Plan.*

- 4.4 Filtera Devices: This proffer requires alternative street tree placement if Filtera Devices conflict with proposed street tree locations.

*Staff has no comments.*

- 5.1 Fire and Rescue Contribution, Residential Uses: This proffer requires a contribution of \$100 per dwelling toward fire and rescue companies providing primary service to the property.

*Staff has no comments.*

- 5.2 Fire and Rescue Contribution, Commercial Uses: This proffer requires a contribution of \$0.10 per square feet of non-residential building toward fire and rescue companies providing primary service to the property.

*Staff has no comments.*

- 5.3 Fire and Rescue Contribution, Cessation: In the event all servicing fire and rescue facilities cease to operate by primarily volunteer organizations prior to build-out of the development, the Applicant shall no longer be required to make contribution specified in Proffers 5.1 and 5.2.

*Staff has no comments.*

- 5.4 Emergency Access: This proffer requires proper access of emergency vehicles to buildings no later than the framing stage of construction.

*Staff has no comments.*

- 6.1 POA, Required: This proffer requires the establishment of a property owners association.

*Staff notes that several proffered elements are included as POA responsibilities and that proffered elements cannot be made unless approved by the Town. Staff notes that the only mechanism for changing proffers is a legislative process which includes preparation of application documents a \$10,000 review fee. Staff advises caution accepting this proffer.*

- 6.2 POA, Documents: This proffer requires the submission of the POA documents and creation of the POA prior to the approval of the first site plan for the property.

*Staff has no comments.*

- 6.3 POA Duties: This proffer describes the duties of the POA.

*Staff has no comments.*

- 6.4 Garage Conversions: This proffer requires the use of the garage a vehicular storage place and prohibits the conversion of garage spaces to habitable spaces.

*Staff has no comments.*

- 6.5 Private Parking Courts: This proffer states that the POA documents will include a statement regarding POA maintenance of private parking courts.

*Staff recommends that "statement" be replace by "disclosure".*

- 6.6 Private Yard Maintenance: This proffer states that the POA will provide maintenance of yards and landscaping and ensure light fixtures on the rears of dwelling units are on during evening hours and that light bulbs are replaced.

*Staff notes that policing of light fixtures on every dwelling unit presents practical difficulties. Staff objects to this portion of the proffer and suggests that strategically placed light poles in alleys be provided for safety lighting.*

- 6.7 Street Tree Maintenance: This proffer requires the POA to maintain street trees within the public right-of-way.

*Staff notes that policing the POA to maintain street trees is problematic. The proffer does not specify what "maintenance" includes or the penalties of failure to provide proper maintenance.*

- 7.0 Noise Attenuation: This proffer describes the noise mitigation measures to be included for the dwelling units closest to the Route 15 By-Pass. The mitigation measures include installation of 32 STC rated doors and windows, a sealed engineer's report certifying the interior noise level, and a disclosure statement identifying the home's location within the Noise Abatement Overlay District prior to issuance of occupancy for each unit affected by the proffer.

*Staff has no comment.*

- 8.0 Capital Facility Contribution: This proffer provides the monetary contribution for residential dwellings as identified in Resolution 2005-111 for Loudoun County Public Schools' capital costs.

*Staff notes that the proffer permits the Town Council to give the contribution to Loudoun County Public Schools or retain the contribution for use of any capital project in the Town of Leesburg. This would require a decision by Town Council once contributions are collected regarding where the funds would go.*

- 9.0 Construction Traffic: This proffer prohibits construction traffic from Davis Court.

*Staff has no comment.*

- 10.0 Waiver and Modifications: This proffer notes a typical standard applied to all legislative applications where unless specifically modified or waived all requirements of the Zoning Ordinance, Design and Construction Standards Manual, and Subdivision and Land Development Regulations must be satisfied.

*Staff has no comment.*

- 11.0 Escalator Clause: This proffer provides an inflation factor for all monetary contributions in the proffers.

*Staff has no comment.*

- 12.0 Binding Effect: This proffer states the Applicant binds themselves to the proffers.

*Staff has no comment.*

**VII. Rezoning Approval Criteria:** Zoning Ordinance Section 3.3.15 establishes the following criteria for the Planning Commission and Town Council to use, in addition to other reasonable considerations, in making their decision regarding

approval or disapproval of a zoning map amendment application. Listed below are the specific criteria with staff response.

- a. *“Consistency with the Town Plan, including but not limited to the Land Use Compatibility policies”*

The proposed rezoning is not consistent with the Crescent District Master Plan. In addition, Staff recommends denial of the related Town Plan Amendment (TPA) because it provides inadequate justification regarding why the Town should amend the Crescent District Master Plan. (See the Town Plan Amendment Staff report). Should the Council see fit to approve the proposed TPA Staff’s opinion in this regard could change.

- b. *“Consistency with any binding agreements with Loudoun County, as amended, or any regional planning issues, as applicable”*

This criterion is satisfied. Staff is unaware of any conflicts regarding binding agreements with The County of Loudoun or any regional planning issues.

- c. *“Mitigation of traffic impacts, including adequate accommodation of anticipated motor vehicle traffic volumes and emergency access”*

Unresolved issues regarding street sections prevent Staff from making any final conclusions or recommendations regarding mitigation of traffic impacts at this time.

- d. *“Compatibility with surrounding neighborhood and uses; and”*

Staff has identified unresolved issues regarding the compatibility of proposed land uses, such as the proximity of high tension lines and the Greenway Extension to residential uses that must be addressed before this criterion can be satisfied.

- e. *“Provision of adequate public facilities.”*

This criterion can be satisfied. Although unresolved issues regarding transportation remain unaddressed, adequate public facilities can be provided by the Applicant.

**VIII.4<sup>th</sup> Submission Comments:** Staff has additional comments on this fourth submission concerning various elements of the proposed rezoning which have not been adequately resolved. Together they substantially affect the achievability of the rezoning proposal layout and need to be addressed further. An outline of Concept Plan deficiencies is provided below. Staff anticipates more detailed discussion and analysis during future Planning Commission Work Sessions. The outline includes, but is not limited to the following items:



Zoning

1. Frontage requirements

Notes and tabulations

2. Existing conditions plan

Typical details

3. Build to line dimension
4. Commercial lot rear yard setbacks
5. Mixed-use lot rear yard setbacks
6. Utility corridor
7. Truck turning movements, dumpsters loading spaces

General design

8. Pedestrian connections
9. Sight distance lines
10. RCPC and alley separation requirements
11. Driveway locations in curb-returns

Proffer comments

12. Recommendation to detain the 100-yr storm event.
13. Recommendation to add dam breach analysis

Amenity areas & landscaping

14. Tot lots
15. Grill locations
16. Buffering and screening of residential units to Olde Izaak Walton Park.
17. Interior parking lot landscaping, consistency
18. Mass grading plan and canopy coverage
19. Streetscape and tree location
20. Tree notes, specie types
21. Bioretention planting scheme

This outline may be expanded as issues are discussed by the Planning Commission at future work sessions.

**IX. MODIFICATIONS:** TLZO Sec. 8.2.2.E Zoning Modifications permits applicants the opportunity to request modifications to zoning requirements *with justification*. Note that the applicant's justification is in their Statement of Justification, attachment 2. The modification approval criteria states that no modification shall be approved unless the Town Council finds that such modification to the regulations will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulation. Staff has the following comments regarding the requested modification.

- A. Parking Spaces:** TLZO Sec. 11.3 requires 2.5 spaces per dwelling unit, but limits credit of tandem parking spaces (one inside, one outside) for one-car

garages to one space. The Applicant has requested a modification to allow credit for both (inside and outside the garage, resulting in two provided spaces.

**Staff Response - Approval:** Due to the availability of on-street parking for visitors, a proffered restriction of garage conversions to habitable space, and recent approvals for other planned development approvals which included stacked townhouses, Staff does not object to the requested modification.

The Crescent Design District (CDD) permits zoning modifications as contained in TLZO Section 7.10.12, and limited modifications by the Zoning Administer in certain sections of the CDD. The Applicant has requested the following CDD modifications:

- B. On-Street Parking:** TLZO Sec. 7.10.11 specifies the extension of Davis Avenue as an Urban Boulevard. Per the street section contained in TLZO Section 7.10.11, urban boulevards do not include on-street parking. The Applicant is requesting to modify the Davis Avenue extension road classification of an Urban Boulevard to a General Street. Reclassification would permit on-street parking.

**Staff Response - Objection:** Reclassification of a roadway is not permitted under TLZO Section 7.10.11.A.4 Adjustments to Street Cross Sections. TLZO Section 7.10.11.A.4.a does permit modifications to transition between streets contained within the CDD and those streets which lie outside of the Crescent District. To facilitate this request, Staff has advised the Applicant to seek a zoning text amendment to reclassify the extension of Davis Avenue.

- C. Architectural Modifications:** TLZO Section 7.10.6 contains architectural specifications for buildings in the Crescent Design District. The Applicant has requested modifications of the specifications to promote uniqueness in architectural design.

**Staff Response - Approval:** The requested modifications will be specifically addressed at a work session focused on architectural design. As illustrated in the attachments to this report, the proposed architecture respects traditional Leesburg vernacular, but provides an identity for Crescent Parke. Staff generally supports the conceptual building elevations as designed.

- D. Additional Modifications:** Staff notes that additional modifications may be necessary as the details of the zoning requirements are discussed at the work sessions. Additional modifications could include:
- Building Frontage Requirement, TLZO Section 7.10.4

**X. Staff Recommendation and Findings:** Staff has identified significant unresolved issues with this application in the staff report. As a result, Staff is unable to make a recommendation on this rezoning at this time based on the following key **Findings** with respect to the Crescent Parke rezoning:

- Town Plan Compliance. The proposal is contrary to current Town Plan land use policies which call for mixed uses or open space on the 29 acres subject to rezoning to high density residential use. In addition, Staff is recommending denial of TLTA-2015-0001 Crescent Parke Land Use and Transportation Amendments.
- Compliance with Crescent District Zoning Standards. Sections V and XIII of this report address miscellaneous Zoning Ordinance and proffer issues that should be addressed before approval of this application can be considered.
- Stormwater Management Concerns. Section V of this report addresses issues related to stormwater management impacts that should be addressed before approval of this application can be considered.
- Transportation issues regarding Davis Drive Extension and the Greenway Extension. The proposed Davis Drive Extension and the Greenway Extension have unresolved issues that should be addressed before approval of this application can be considered.
- Zoning Text Amendment Required. One requested modification is not possible because it seeks to reclassify Davis Avenue from an “Urban Boulevard” to a “General Urban Street”. This requires a Zoning Ordinance text amendment and the rezoning as proposed cannot be approved without the amendment.
- Rezoning Criteria. The rezoning approval criteria of TLZO Sec. 3.3.15 have not been satisfied for TLZM 2013-0001.

---

**Next Steps:** Rather than action on December 18, 2014, Staff recommends that the Planning Commission schedule a work session(s) to facilitate discussion of the comments contained in this report as a possible means of addressing the issues. Specifically, Staff recommends that the work session(s) consider the Town Plan issues first before proceeding to address the details of the rezoning (Concept Plan, proffers).

## **XI. Attachments**

1. Crescent Parke Concept, Sheets 1-36, as prepared by Bowman, last revised April 17, 2015
2. Applicant’s Statement of Justification dated December 23, 2014
3. Applicant’s Request for Modifications dated April 17, 2015
4. Draft Proffer Statement dated April 17, 2015

5. 3<sup>rd</sup> Submission Comment Response Letter dated April 17, 2015
6. Noise Analysis dated April 9, 2014
7. Conceptual Commercial Building Elevations
8. Conceptual Mixed-Use Building Elevations
9. Conceptual Townhouse Building Elevations
10. Conceptual 2 over 2 Building Elevations
11. Architectural Narrative
12. TLPF 2010-0004 Layout
13. TLPS 2008-0001 Layout
14. Department of Plan Review SWM/BMP Comments